



DEPARTMENT OF COMMERCE

Census Bureau

15 CFR Part 30

[Docket Number: 211117-0237]

RIN 0607-AA59

Foreign Trade Regulations (FTR): New Filing Requirement and Clarifications to Current Requirements

AGENCY: Census Bureau, Commerce Department.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Census Bureau is proposing to amend its regulations to reflect new export reporting requirements related to the country of origin. Specifically, the Census Bureau is proposing to add a conditional data element, country of origin, when Foreign origin is selected in the Foreign/Domestic Origin Indicator field in the Automated Export System (AES). In addition to the new export reporting requirement, the proposed rule would make remedial changes to the FTR to improve clarity and to correct errors.

DATES: Written comments must be received on or before **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: You may submit comments by any of the following methods:

- Federal eRulemaking Portal: <https://www.regulations.gov>. The identification number for this rulemaking is identified by RIN 0607-AA59; or
- By email directly to gtmd.ftrnotices@census.gov. Include RIN 0607-AA59 in the subject line.

All comments received are part of the public record. No comments will be posted to <https://www.regulations.gov> for public viewing until after the comment period has closed.

Comments will generally be posted without change. All Personally Identifiable Information (for example, name and address) voluntarily submitted by the commenter may be publicly accessible. Do not submit confidential business information or otherwise sensitive or protected information.

FOR FURTHER INFORMATION CONTACT: Lisa E. Donaldson, Chief, Economic Management Division, Census Bureau by phone (301) 763-7296 or by e-mail lisa.e.donaldson@census.gov. Additionally, Stephanie L. Studds, Chief, Economic Indicator Division, Census Bureau by phone (301) 763-2633 or by e-mail stephanie.l.studds@census.gov.

SUPPLEMENTARY INFORMATION:

Background

The Census Bureau is responsible for collecting, compiling, and publishing export trade statistics for the United States under the provisions of Title 13, United States Code (U.S.C.), Chapter 9, Section 301. While the Census Bureau is the official source for U.S. international trade statistics, the Census Bureau works in partnership with U.S. Customs and Border Protection (CBP) to collect data regarding both exports and imports. Additionally, the Census Bureau is responsible for publishing the Foreign Trade Regulations (FTR) that set the export reporting requirements for Electronic Export Information (EEI). The EEI is made up of mandatory, conditional, and optional data elements. The purpose of this rulemaking is to add a conditional data element, country of origin, when Foreign origin is selected in the Foreign/Domestic Origin Indicator field in the EEI. The FTR defines foreign goods as goods that were originally grown, produced, or manufactured in a foreign country, then subsequently entered into the United States, admitted to a U.S. Foreign Trade Zone (FTZ), or entered into a CBP bonded warehouse, but not substantially transformed in form or condition by further

processing or manufacturing in the United States, U.S. FTZs, Puerto Rico, or the U.S. Virgin Islands.

Under Section 301 of Title 13 U.S.C., the Secretary of Commerce is authorized to collect and publish import and export information considered necessary or appropriate “to foster, promote, develop, and further” domestic commerce. Executive Order (E.O.) 14017, “America’s Supply Chains,” sets forth the U.S. Government policy to build resilient and diverse supply chains that increase domestic production, diversify the supply of goods, feature redundancies, ensure adequate stockpiles, and leverage the American manufacturing base and workforce. (86 FR 11849; March 01, 2021). E.O. 14017 establishes a multi-agency approach, which includes the Department of Commerce, in assessing and identifying critical supply chain components and gaps in domestic production filled by foreign nations that instead supply these goods. These activities and broader supply chain analysis are necessary and appropriate in furthering domestic commerce. Under the authorities in Chapter 9 of Title 13, the Secretary of Commerce proposes to collect data on the entry and origin of foreign goods into the United States to improve the foreign trade statistics produced by the Census Bureau.

Currently, foreign trade statistics do not provide insight sufficient to identify the gaps in domestic product and supply, evaluate supply chains, or address trade imbalances. U.S. Government agencies and private entities need accurate and complete foreign trade statistics to create and monitor trade agreements, formulate trade policy, assess U.S. supply chain issues, and identify and address trade imbalances. Agencies and the private sector also use foreign trade statistics to identify new markets for U.S. goods and services globally.

The current Foreign/Domestic Origin Indicator field in the Automated Export System (AES) creates significant data challenges and limitations in using the trade statistics produced by the Census Bureau and other Federal agencies because the Indicator does not capture the country of origin. Currently, U.S. agencies rely on foreign trade partners to share the data they

collect on the foreign and domestic origin of goods. This reliance limits U.S. agencies' ability to identify asymmetry in imports and exports of goods, as any asymmetry must be inferred by evaluating the data acquired from foreign trading partners with the data collected on U.S. imports by CBP.

The collection of the Country of Origin field in AES for reexports would eliminate the reliance on information provided by foreign partners, thereby increase the accuracy and timeliness of the foreign trade statistics used to monitor trade agreements and policy to assist in assessing U.S. supply chain issues. The collection also would assist U.S. Government agencies that use these statistics to reconcile trade imbalances between the United States and our partner countries. The U.S. Statistical Agencies collaborate globally to identify and understand data asymmetries between one country's imports and the other country's exports statistics.

By augmenting the Country of Origin field for exports in the AES, the Census Bureau could produce trade statistics equivalent to the data collected globally. The increased granularity in data collected through a Country of Origin field would significantly improve the accuracy of asymmetry evaluation as well as the creation, negotiation, and evaluation of U.S. trade agreements and the ability to monitor goods within U.S. supply chains. These data can provide critical insight to U.S. supply chain issues, as the economy emerges from the pandemic. Additionally, many of our trading partners require and collect a detailed country of origin on their imports and exports. In consulting with the Organisation for Economic Co-operation and Development and other countries globally, the Census Bureau learned that this information is mandatory for their collection. Through research conducted with exporting companies, the Census Bureau has determined that these data are available and can be provided by exporters, within an estimated 12-18 months to update internal and/or proprietary computer systems, and/or the technology they utilize to implement the required changes to the AES.

Therefore, the Census Bureau is proposing to collect the Country of Origin field on reexports to create official statistics.

The Census Bureau understands that the addition of country of origin for reexports may have implications for the trade in filing in the AES and complying with the FTR.

The Census Bureau is seeking public comments from data users, businesses and others to assess this proposed change on foreign trade statistics. Below are questions to consider when providing feedback to this proposed rule; however, any pertinent feedback not captured by these questions is welcome.

1. Describe potential uses of the Census Bureau's statistical data of international trade.
2. Describe the potential value of adding country of origin to the EEI if using the Census Bureau's statistical data of international trade.
3. If a stakeholder utilized or managed proprietary software to communicate with the AES, how long would it need to potentially add the Country of Origin field?
4. How long would a company who utilizes or manages proprietary software need to make programming changes to potentially add the country of origin field to its interface to AES?
5. Are there business practices that a company would need to implement in order to come into compliance with the reporting of the Country of Origin field?
6. How would the country of origin be identified when companies store or warehouse goods of multiple origins together?

Program Requirements

To comply with the requirements of the Foreign Relations Act, Public Law 107-228, the Census Bureau is amending relevant sections of the FTR to revise or clarify export reporting requirements. Therefore, the Census Bureau is correcting 15 CFR part 30 by making the following correcting amendments:

- Revise §30.2(d)(3) to remove the language, “(See Subpart B of this part for export control requirements for these type of transactions.),” as the exclusion overrides the export control requirements.
- Revise §30.3(e)(1) to add the proposed data element, “Country of origin,” to the list of required data elements that need to be provided by the U.S. Principal Party in Interest (USPPI) in a routed export transaction.
- Revise §30.6(a)(1)(iii) to clarify that when the Dun and Bradstreet Number (DUNS) is reported as the USPPI ID, the Employer Identification Number (EIN) of the USPPI also is required to be reported in the Automated Export System.
- Revise §30.6(b)(3) to amend the Foreign Trade Zone (FTZ) identifier to allow for 9-digits. The increased number of digits is required because of the increase in the number of subzones.
- Revise §30.6(b)(18) to add the conditional data element “Country of origin.” The “Country of origin” will be the code issued by the International Standards Organization and reported when Foreign origin is selected in the Foreign/Domestic Origin Indicator field in the Automated Export System.
- Revise §30.37(u) to remove and reserve the exemption for technical data. This exemption is covered under §30.2(d)(3), making the exemption redundant.
- Revise §30.55 to remove the citation “19 CFR 103.5” and add in its place “19 CFR part 103.”
- Revise §30.71 to amend the Note to paragraph (b) to address the yearly adjustments for civil penalties as a result of inflation.

- Revise §30.74 to amend paragraph (c)(5) to remove information that may become outdated and referencing the Census Bureau website to obtain the most current method for submitting a Voluntary Self-Disclosure.

Rulemaking Requirements

Regulatory Flexibility Act

The Chief Council for Regulation of the Department of Commerce has certified to the Chief Counsel for Advocacy, Small Business Administration that this proposed rule will not have a significant economic impact on a substantial number of small entities.

In the current Foreign Trade Regulations (FTR), the Electronic Export Information (EEI) shall be filed through the Automated Export System (AES) for all exports of physical goods. The AES is the electronic system for collecting Shipper's Export Declaration (SED) (or any successor document) information from persons exporting goods from the United States, Puerto Rico, Foreign Trade Zones located in the United States and Puerto Rico, the U.S. Virgin Islands, between the U.S. and Puerto Rico, and to the U.S. Virgin Islands from the United States or Puerto Rico. In the proposed revisions, export shipments with the Foreign origin selected in the Foreign/Domestic Origin Indicator field will be required to report the country of origin.

In 2020, there were 33,716,623 total number of export records. Of these 33,716,623 records, 23.45% (7,907,049 records) had exports reported with a Foreign origin indicator by the authorized agent or the USPPI. The Census Bureau has conducted research over the last year and contacted 58 U.S. companies across 16 different industries (including major freight forwarders). These companies represented the top 10% by dollar value of exports reported under 31 Harmonized Tariff Schedule (HTS) codes with a Foreign origin indicator. The Center for Economic Studies provided the Census Bureau with questions related to these companies' current ability to adhere to the country of origin requirement. Based on the feedback to the

inquiry, the Census Bureau believes this proposed rule will not create any economic impact on all companies including a substantial number of small entities.

Executive Orders

This proposed rule has been determined to not be significant for purposes of Executive Order 12866. This proposed rule does not contain policies with federalism implications sufficient to warrant preparation of a federalism assessment under Executive Order 12612. This proposed rule has been determined to be not significant for the purposes of Executive Order 14017 “America’s Supply Chains.”

Paperwork Reduction Act

Notwithstanding any other provisions of law, no person is required to respond to, nor shall a person be subject to, a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act (PRA) unless that collection of information displays a valid Office of Management and Budget (OMB) control number.

This proposed rule covers collections of information subject to the provisions of the PRA, which are cleared by OMB under OMB Control Number 0607–0152 – Automated Export System (AES) Program.

This proposed rule will not impact the current reporting-hour burden requirements as approved under OMB Control Number 0607–0152 under provisions of the PRA. The proposed rule will not require any revisions to the information sought under OMB Control Number 0607-0152.

Ron S. Jarmin, Acting Director, Census Bureau, approved the publication of this notice of proposed rulemaking in the *Federal Register*.

List of Subjects in 15 CFR Part 30

Economic statistics, Exports, Foreign trade, Reporting and recordkeeping requirements.

For the reasons set out in the preamble, the Census Bureau is proposing to amend 15 CFR part 30 as follows:

PART 30 – FOREIGN TRADE REGULATIONS

1. The authority citation for 15 CFR part 30 continues to read as follows:

Authority: 5 U.S.C. 301; 13 U.S.C. 301-307; Reorganization plan No. 5 of 1990 (3 CFR 1949-1953 Comp., p.1004); Department of Commerce Organization Order No. 35-2A, July 22, 1987, as amended, and No. 35-2B, December 20, 1996, as amended; Public Law 107-228, 116 Stat. 1350.

2. Amend §30.2 by revising paragraph (d)(3) to read as follows:

§30.2 General requirements for filing Electronic Export Information (EEI).

* * * * *

(d) * * *

(3) Electronic transmissions and intangible transfers.

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3. Amend §30.3 by revising paragraphs (e)(1)(ii) and (vii) through (xii) and adding paragraph (e)(1)(xiii) to read as follows:

§30.3 Electronic Export Information filer requirements, parties to export transactions, and responsibilities of parties to export transactions.

* * * * *

(e) * * *

(1) * * *

(ii) USPPPI's EIN or DUNS.

* * * * *

(vii) Country of origin.

(viii) Schedule B or HTSUSA, Classification Commodity Code.

(ix) Quantities/units of measure.

(x) Value.

(xi) Export Control Classification Number (ECCN) or sufficient technical information to determine the ECCN.

(xii) All licensing information necessary to file the EEI for commodities where the Department of State, the Department of Commerce, or other U.S. Government agency issues a license for the commodities being exported, or the merchandise is being exported under a license exemption or license exception.

(xiii) Any information that it knows will affect the determination of license authorization (see subpart B of this part for additional information on licensing requirements).

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4. Amend §30.6 by revising paragraphs (a)(1)(iii) and (b)(3) and adding paragraph (b)(18) to read as follows:

§30.6 Electronic Export Information data elements.

* * * * *

(a) * * *

(1) * * *

(iii) *USPPI identification number.* Report the Employer Identification Number (EIN) of the USPPI.

If the USPPI has only one EIN, report that EIN. If the USPPI has more than one EIN, report the EIN that the USPPI uses to report employee wages and withholdings, and not the EIN used to report only company earnings or receipts. Use of another company's EIN is prohibited. If a USPPI reports a DUNS, the EIN is also required to be reported. If a foreign entity is in the United States at the time goods are purchased or obtained for export, the foreign entity is the USPPI. In such situations, when the foreign entity does not have an EIN, the authorized agent

shall report a border crossing number, passport number, or any number assigned by CBP on behalf of the foreign entity.

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(b) * * *

(3) *FTZ identifier*. If goods are removed from a FTZ and not entered for consumption, report the FTZ identifier. This is the unique 9-digit alphanumeric identifier assigned by the Foreign Trade Zone Board that identifies the FTZ, subzone or site from which goods are withdrawn for export.

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(18) *Country of origin*. If the goods exported are of foreign origin and have undergone no change in form or condition or enhancement in value by further manufacturing in the United States, U.S. FTZs, Puerto Rico, or the U.S. Virgin Islands, report the foreign country in which the commodities were grown, produced, manufactured, or substantially transformed. For commodities with multiple origins, report the foreign country of the commodity with the greatest value. If the USPPI does not know the foreign country where the goods originated from, the country of origin to be shown is the last foreign country, as known to the USPPI at the time of shipment from the United States, from which the goods were shipped in their present form. Report the country of origin using the code issued by the International Standards Organization.

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§30.37 [Amended]

5. Amend §30.37 by removing and reserving paragraph (u).
6. Amend §30.55 by revising the introductory text to read as follows:

§30.55 Confidential information, import entries, and withdrawals.

The contents of the statistical copies of import entries and withdrawals on file with the Census Bureau are treated as confidential and will not be released without authorization by CBP, in

accordance with 19 CFR part 103 relating to the copies on file in CBP offices. The importer or import broker must provide the Census Bureau with information or documentation necessary to verify the accuracy or resolve problems regarding the reported import transaction.

* * * * *

7. Amend §30.71 by designating the note to paragraph (b) as note 1 to paragraph (b) and revising the note to read as follows:

§30.71 False or fraudulent reporting on or misuse of the Automated Export System.

* * * * *

Note 1 to paragraph (b): The civil monetary penalties are adjusted for inflation annually based on The Federal Civil Penalties Inflation Adjustment Act of 1990 (Pub. L. 101-410; 28 U.S.C. 2461), as amended by the Debt Collection Improvement Act of 1996 (Pub. L. 104-134) and the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (Section 701 of Pub. L. 114-74). In accordance with this Act, as amended, the penalties in Title 13, Chapter 9, Sections 304 and 305(b), United States Code are adjusted and published each year in the Federal Register no later than January 15th.

8. Amend §30.74 by revising paragraph (c)(5) to read as follows:

§30.74 Voluntary self-disclosure.

* * * * *

(c) * * *

(5) *Where to make voluntary self-disclosures.* The information constituting a Voluntary Self-Disclosure or any other correspondence pertaining to a Voluntary Self-Disclosure may be submitted to the U.S. Census Bureau, Branch Chief, Trade Regulations Branch by methods permitted by the Census Bureau. See www.census.gov/foreign-trade for more details.

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Dated: December 7, 2021.

Sheleen Dumas,

*Department PRA Clearance Officer, Office of the Chief Information Officer, Commerce
Department.*

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